

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	File No. EB-08-SE-594
	)	
	)	Acct. No. 200932100063
Mobilarm, Ltd.	)	
	)	FRN No. 0011045754

**ORDER**

**Adopted:** June 9, 2009

**Released:** June 12, 2009

By the Chief, Spectrum Enforcement Division, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau ("Bureau") and Mobilarm, Ltd. ("Mobilarm"). The Consent Decree terminates an investigation by the Bureau against Mobilarm for possible violations of 302(b) of the Communications Act of 1934, as amended, (the "Act"),<sup>1</sup> and Sections 2.803 and 80.203(a) of the Communications Rules ("Rules"),<sup>2</sup> regarding the marketing of an uncertified radio frequency device in the United States.

2. The Bureau and Mobilarm have negotiated the terms of the Consent Decree that resolve this matter. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree and terminating the investigation.

4. In the absence of material new evidence relating to this matter, we conclude that our investigation raises no substantial or material questions of fact as to whether Mobilarm possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

5. Accordingly, **IT IS ORDERED** that, pursuant to section 4(i) of the Act,<sup>3</sup> and sections 0.111 and 0.311 of the Rules,<sup>4</sup> the Consent Decree attached to this Order **IS ADOPTED**.

6. **IT IS FURTHER ORDERED** that the above-captioned investigation **IS TERMINATED**.

7. **IT IS FURTHER ORDERED** that all third-party complaints against Mobilarm before the Bureau related to the above-captioned-investigation as of the date of this Consent Decree **ARE DISMISSED**.

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<sup>1</sup> 47 U.S.C. § 302a(b).

<sup>2</sup> 47 C.F.R. §§ 2.803 and 80.203(a).

<sup>3</sup> 47 U.S.C. § 154(i).

<sup>4</sup> 47 C.F.R. §§ 0.111, 0.311.

8. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to counsel for Mobilarm, Anthony C. DeFillipis, Pepe & Hazard, LLP, 225 Asylum Square, Hartford, CT 06103-4302.

FEDERAL COMMUNICATIONS COMMISSION

Kathryn S. Berthot  
Chief, Spectrum Enforcement Division  
Enforcement Bureau

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	File No. EB-08-SE-594
	)	
Mobilarm Ltd.	)	Acct. No. 200932100063
Applecross, Western Australia	)	FRN No. 0011045754

**CONSENT DECREE**

The Enforcement Bureau (“Bureau”) and Mobilarm, Ltd. (“Mobilarm”), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Bureau’s investigation into whether Mobilarm violated Section 302(b) of the Communications Act of 1934, as amended, (the “Act”), 47 U.S.C. Section 302a(b), and Sections 2.803 and 80.203(a) of the Communications Rules (“Rules”), 47 C.F.R. Sections 2.803 and 80.203(a), in connection with the marketing of the Mobilarm V100 transmitter in the United States.

**I. DEFINITIONS**

1. For the purposes of this Consent Decree, the following definitions shall apply:
  - (a) “Act” means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
  - (b) “Adopting Order” means an Order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
  - (c) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
  - (d) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
  - (e) “Complaints” means third-party complaints that may have been received by, or are in the possession of, the Commission or Bureau alleging violations of the equipment marketing rules.
  - (f) “Compliance Plan” means the program described in this Consent Decree at paragraph 8.
  - (g) “Effective Date” means the date on which the Bureau releases the Adopting Order.
  - (h) “Investigation” means the investigation commenced by the Bureau’s February 3, 2009 and February 10, 2009 letters of inquiry (“LOIs”) regarding whether Mobilarm

violated Section 302(b) of the Act<sup>1</sup> and Sections 2.803 and 80.203(a) of the Rules<sup>2</sup> in connection with its marketing of the Mobilarm V100 transmitter.<sup>3</sup>

- (i) “Mobilarm” means Mobilarm, Ltd. and its predecessors-in-interest and successors-in-interest.
- (j) “Parties” means Mobilarm and the Bureau.
- (k) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.

## II. BACKGROUND

2. Pursuant to Section 302(b) of the Act<sup>4</sup> and Sections 2.803 and 80.203(a) of the Rules,<sup>5</sup> radio frequency devices such as the Mobilarm V100 transmitter may not be marketed without prior authorization by the Commission or without appropriate disclaimers in the manner prescribed pursuant to Section 2.803(c) of the Rules.<sup>6</sup>

3. On February 3, 2009, the Bureau issued a LOI to Mobilarm.<sup>7</sup> This LOI directed Mobilarm, among other things, to submit a sworn written response to questions relating to the marketing of the “Mobilarm V100 transmitter” in the United States. Mobilarm responded to the February 3, 2009 LOI on February 6, 2009.<sup>8</sup> On February 10, 2009, the Bureau issued a follow-up LOI to Mobilarm.<sup>9</sup> Mobilarm replied to the second LOI on March 6, 2009 and March 11, 2009.<sup>10</sup>

## III. TERMS OF AGREEMENT

4. **Adopting Order.** The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order without change, addition, modification, or deletion.

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<sup>1</sup> 47 U.S.C. § 302a(b).

<sup>2</sup> 47 C.F.R. §§ 2.803 and 80.203(a).

<sup>3</sup> Letters from Kathryn Berthot, Chief Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, to Mobilarm, Ltd. (February 3 and 10, 2009) (“February 3, 2009, LOI” and “February 10, 2009, LOI”)

<sup>4</sup> 47 U.S.C. § 302a(b).

<sup>5</sup> 47 C.F.R. §§ 2.803 and 80.203(a).

<sup>6</sup> 47 C.F.R. § 2.803(c).

<sup>7</sup> February 3, 2009 LOI.

<sup>8</sup> Letter from Lindsay Lyon, Chief Executive Officer, Mobilarm, Ltd., to Thomas D. Fitz-Gibbon, Attorney Advisor, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, (February 5, 2009).

<sup>9</sup> February 10, 2009 LOI.

<sup>10</sup> Letters from Anthony DeFilippis, Jr., Counsel for Mobilarm, Ltd., to Thomas D. Fitz-Gibbon, Attorney Advisor, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, (March 6 and 11, 2009)

5. **Jurisdiction.** Mobilarm agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and has the authority to enter into and adopt this Consent Decree.

6. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the date on which the Bureau releases the Adopting Order. Upon release, the Adopting Order and this Consent Decree shall have the same force and effect as any other Order of the Bureau. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Bureau Order, entitling the Bureau to exercise any rights and remedies attendant to the enforcement of a Commission Order.

7. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate its investigation and dismiss the Complaints. In consideration for the termination of said investigation and dismissal of the Complaints, Mobilarm agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that, in the absence of new material evidence, the Bureau will not use the facts developed in this investigation through the Effective Date of the Consent Decree, or the existence of this Consent Decree, to institute, on its own motion, any new proceeding, formal or informal, or take any action on its own motion against Mobilarm concerning the matters that were the subject of the investigation. The Bureau also agrees that it will not use the facts developed in this investigation through the Effective Date of this Consent Decree, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against Mobilarm with respect to Mobilarm's basic qualifications, including its character qualifications, to be a Commission licensee or hold Commission authorizations.

8. **Compliance Plan.** For purposes of settling the matters set forth herein, Mobilarm agrees to maintain a Compliance Plan related to future compliance with the Act, the Commission's Rules, and the Commission's Orders. The Plan will include, at a minimum, the following components:

(l) **Compliance Officer.** Mobilarm will appoint its Chief Executive Officer, Lindsay Lyon, as the Compliance Officer who will oversee the Compliance Plan and enforce the applicable FCC requirements within Mobilarm.

(m) **Compliance Measures.** To ensure future compliance, Mobilarm will implement compliance policies and procedures which will: (1) include compliance with FCC requirements in the company's marketing for sale of Mobilarm transmitter devices within the jurisdiction of the Commission; (2) conduct training for key personnel, including all sales staff, at least semi-annually, regarding the labeling and notice requirements required in the marketing for sale any such transmitter device within the Commission's jurisdiction; (3) identify, segregate and maintain all marketing materials distributed in the United States or to prospective clients in the United States or used at any trade show within the United States.

(n) **Compliance Reports.** Mobilarm will file compliance reports with the Commission ninety (90) days after the Effective Date, twelve (12) months after the Effective Date, and twenty-four (24) months after the Effective Date. Each compliance report shall include a compliance certificate from an officer, as agent of Mobilarm, stating that the officer has personal knowledge that Mobilarm has established operating procedures intended to ensure compliance with this Consent Decree, together with an accompanying statement explaining the basis for the officer's compliance certification. All compliance reports shall be submitted to Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW, Washington, D.C. 20554.

- (o) **Termination Date.** Unless otherwise stated, the requirements of this Consent Decree will expire twenty-four months after the Effective Date

9. **Voluntary Contribution.** Mobilarm agrees that it will make a voluntary contribution to the United States Treasury in the amount of four thousand dollars (\$4,000.00). Such contribution shall be made in four (4) monthly installments of one thousand dollars (\$1,000.00) each. The first payment is to be made within thirty (30) calendar days of the Effective Date, and the balance paid in subsequent consecutive monthly installments as set forth above. Each payment must be made by check or similar instrument, payable to the Order of the Federal Communications Commission. The payment must include the Account Number and FRN Number referenced in the caption to the Adopting Order. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the Account number in block number 23A (call sign/other ID), and enter the letters “FORF” in block number 24A (payment type code). Mobilarm will also send electronic notification on the dates said payments are made to Thomas FitzGibbon at Thomas.FitzGibbon@fcc.gov and Neal McNeil at Neal.McNeil@fcc.gov.

10. **Waivers.** Mobilarm waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order, provided the Bureau issues an Adopting Order adopting the Consent Decree without change, addition, modification, or deletion. Mobilarm shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither Mobilarm nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Mobilarm shall waive any statutory right to a trial *de novo*. Mobilarm hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters addressed in this Consent Decree.

11. **Invalidity.** In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

12. **Subsequent Rule or Order.** The Parties agree that if any provision of the Consent Decree conflicts with any subsequent rule or Order adopted by the Commission (except an Order specifically intended to revise the terms of this Consent Decree to which Mobilarm does not expressly consent) that provision will be superseded by such Commission rule or Order.

13. **Successors and Assigns.** Mobilarm agrees that the provisions of this Agreement shall be binding on its successors, assigns, and transferees.

14. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties. The Parties further agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination regarding any compliance or noncompliance with the requirements of the Act or the Commission’s Rules and Orders.

15. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.

16. **Paragraph Headings.** The headings of the Paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

17. **Authorized Representative.** Each party represents and warrants to the other that it has full power and authority to enter into this Consent Decree.

18. **Counterparts.** This Consent Decree may be signed in any number of counterparts (including by facsimile), each of which, when executed and delivered, shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

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Kathryn S. Berthot  
Chief, Spectrum Enforcement Division  
Enforcement Bureau

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Date

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Lindsay Lyon  
Chief Executive Officer  
Mobilarm, Ltd.

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Date